

**UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
DOCKETING STATEMENT--CIVIL/AGENCY CASES**

Directions: Counsel must make a docketing statement (civil/agency) filed entry in CM/ECF within 14 days of docketing of the appeal, or within the due date set by the clerk's docketing notice, whichever is later. File with the entry the (1) docketing statement form with any extended answers and (2) any transcript order form. Parties proceeding pro se are not required to file a docketing statement. Opposing counsel who finds a docketing statement inaccurate or incomplete may file any objections within 10 days of service of the docketing statement using the ECF event-docketing statement objection/correction filed.

Appeal No. & Caption	14-2149, Michael McGovern v. PPG Industries, Inc.
Originating No. & Caption	5:14-cv-00069-IMK
Originating Court/Agency	United States District Court for the Northern District of W.Va.

Jurisdiction (answer any that apply)		
Statute establishing jurisdiction in Court of Appeals		
Time allowed for filing in Court of Appeals	30 days from entry	
Date of entry of order or judgment appealed	September 30, 2014	
Date notice of appeal or petition for review filed	October 22, 2014	
If cross appeal, date first appeal filed		
Date of filing any post-judgment motion		
Date order entered disposing of any post-judgment motion		
Date of filing any motion to extend appeal period		
Time for filing appeal extended to		
Is appeal from final judgment or order?	<input checked="" type="radio"/> Yes	<input type="radio"/> No
If appeal is not from final judgment, why is order appealable?		

Settlement (The docketing statement is used by the circuit mediator in pre-briefing review and mediation conducted under Local Rule 33. Counsel may make a confidential request for mediation by calling the Office of the Circuit Mediator at 804-379-4071.)		
Is settlement being discussed?	<input type="radio"/> Yes	<input checked="" type="radio"/> No

Transcript (transcript order must be attached if transcript is needed and not yet on file)		
Is transcript needed for this appeal?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
Has transcript been filed in district court?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
Is transcript order attached?	<input type="radio"/> Yes	<input checked="" type="radio"/> No

Case Handling Requirements (answer any that apply)		
Case number of any prior appeal in same case	N/A	
Case number of any pending appeal in same case	N/A	
Identification of any case pending in this Court or Supreme Court raising similar issue	If abeyance or consolidation is warranted, counsel must file an appropriate motion.	
Is expedited disposition necessary?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
	If yes, motion to expedite must be filed.	
Is oral argument necessary?	<input checked="" type="radio"/> Yes	<input type="radio"/> No
Does case involve question of first impression?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
Does appeal challenge constitutionality of federal or state statute in case to which federal or state government is not a party	<input type="radio"/> Yes	<input checked="" type="radio"/> No
	If yes, notice re: challenge to constitutionality of law must be filed.	

Nature of Case (Nature of case and disposition below. Attach additional page if necessary.)
<p>Appellant is an employee of Appellee. Appellant was seriously injured at work while performing his job duties. Plaintiff filed a complaint against the Appellee in the US District Court for the Northern District of West Virginia based upon W.Va. Code § 23-4-2(d)(2)(ii), the "deliberate intent" statute. The case was dismissed by Honorable Judge Irene Keeley on a Motion to Dismiss under W.Va. R.C.P Rule 12(b)(6) for failure to state a claim.</p>

Issues (Non-binding statement of issues on appeal. Attach additional page if necessary)

Whether or not the trial court erred in dismissing the Plaintiff/Appellant's case for failure to state a claim when the Plaintiff/Appellant pled he suffered injury as a result of an unsafe working condition, the employer had actual knowledge of the condition that caused the injury, but where no specific statute protecting the employee from the unsafe working condition that caused the injury existed.

Adverse Parties (List adverse parties to this appeal and their attorneys; provide party's address if the party is not represented by counsel. Attach additional page if necessary.)

Adverse Party: PPG Industries, Inc

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Adverse Party: PPG Industries, Inc.

Attorney: Christopher Lauderman, Esq.

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Adverse Parties (continued)

Adverse Party:

Attorney:

Address:

E-mail:

Phone:

Adverse Party:

Attorney:

Address:

E-mail:

Phone:

Appellant (Attach additional page if necessary.)

Name: Michael J. McGovern

Name:

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Appellant (continued)

Name:

Name:

Attorney:
Address:Attorney:
Address:

E-mail:

E-mail:

Phone:

Phone:

Signature: 

Date: November 5, 2014

Counsel for: Michael J. McGovern

Certificate of Service: I certify that on 11/5/2014 the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below (Attach additional page if necessary):

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Signature:

Date: November 5, 2014